

The complaint

Mrs K complains that Monzo Bank Ltd won't refund her the money she lost after she fell victim to an Authorised Push Payment ("APP") scam.

What happened

The background to this complaint is well known to both parties, so I won't repeat it all in detail here. But in summary, I understand it to be as follows.

In or around August 2023, Mrs K was contacted, via a well-known messaging app regarding a job opportunity. Mrs K has said that at the time she was looking for jobs and believes she may have completed an online form ahead of being contacted. She was told the job involved completing tasks to promote 'app' ratings, for which she would earn a salary and commission. Believing everything to be genuine Mrs K proceeded, but unknown to her at the time, she had been contacted by fraudsters. The fraudsters then persuaded Mrs K to pay her own money in order to proceed with the work.

Mrs K made payments to an account she had set up with a third-party cryptocurrency platform. Her payments were then converted into cryptocurrency and subsequently transferred into the control of the fraudsters. She used her Monzo card to make the following payments, totalling £19,118.

	Date	Amount
1	14 August 2023	£1,374
2	14 August 2023	£942
3	16 August 2023	£2,740
4	16 August 2023	£2,000
5	22 August 2023	£2,310
6	25 August 2023	£4,102
7	29 August 2023	£2,800
8	6 September 2023	£2,820
9	6 September 2023	£30

Mrs K realised she'd been scammed when she was asked to pay increasingly larger sums. On telling the fraudster she couldn't afford to make any further payments, contact with the fraudsters was lost.

Mrs K raised a fraud claim with Monzo, but it didn't agree to reimburse her. In summary, this was because it didn't think it was liable as the money sent from Monzo were not the scam payments; the loss had been suffered from Mrs K's own cryptocurrency wallet. Alongside this, Monzo didn't think it would have had an opportunity to recover the money that Mrs K had lost. Monzo did recognise that there was a delay in giving Mrs K an outcome to her claim and in recognition of this offered £50 compensation.

Unhappy with Monzo's response, Mrs K brought her complaint to this service. One of our Investigator's looked into things and thought the complaint should be upheld in part. In

summary, our Investigator thought Monzo ought to have intervened at the point Mrs K made the third payment (the payment for £2,740 that was made on 16 August 2023). It was our Investigator's view that had Monzo intervened at this point and warned Mrs K, it would have made a difference, and she wouldn't have gone ahead with this payment or the ones that followed.

But our Investigator also thought Mrs K should bear some responsibility for her loss. In summary, this was because he thought there was enough going on that ought to have led her to have some concerns about the legitimacy of the job.

Mrs K agreed with our Investigator's view. But Monzo disagreed, in summary;

- It maintained that Monzo was not the point of loss for the payments and that Mrs K was still in control of her money when it left Monzo.
- When opening her account, Mrs K had told Monzo that her intention was to use the account for cryptocurrency, as such the spending was expected.
- It didn't agree that it could feasibly intervene every time a customer makes a payment that has an increased value.
- There were no fraud concerns about the cryptocurrency exchange to which the payments were made.

As agreement couldn't be reached, the complaint has been passed to me for a decision.

What I've decided – and why

I've considered all the available evidence and arguments to decide what's fair and reasonable in the circumstances of this complaint.

It isn't in dispute that Mrs K authorised the payments she made to the scammers. And the starting position is that banks ought to follow the instructions given by their customers in order for legitimate payments to be made. There are though some circumstances in which a bank may still be reasonably expected to reimburse a customer for payments made to a scam.

My fellow ombudsmen and I have referenced the relevant rules, codes of practice and good industry practice at the time in many previous decisions, both to Monzo and published on our website. But as a reminder for Monzo, I'll set them out again here.

The starting point under the relevant regulations (in this case, the Payment Services Regulations 2017) and the terms of Mrs K's account is that Mrs K is responsible for payments she authorised. And, as the Supreme Court has reiterated in *Philipp v Barclays Bank UK PLC*, which Monzo has referred to in its submissions, banks generally have a contractual duty to make payments in compliance with the customer's instructions. In that case, the Supreme Court considered the nature and extent of the contractual duties owed by banks when making payments. Among other things, it said, in summary:

- The starting position is that it is an implied term of any current account contract that, where a customer has authorised and instructed a bank to make a payment, the bank must carry out the instruction promptly. It is not for the bank to concern itself with the wisdom or risk of its customer's payment decisions.
- The express terms of the current account contract may modify or alter that position. For example, in *Philipp*, the contract permitted Barclays not to follow its consumer's instructions where it reasonably believed the payment instruction was the result of

APP fraud; but the court said having the right to decline to carry out an instruction was not the same as being under a duty to do so.

In this case, Monzo's April 2023 terms and conditions gave it rights (but not obligations) to:

- Refuse to make a payment if it suspects it's customer may be a victim of fraud. It explains if it blocks a payment, it will let its customer know as soon as possible, using one of its usual channels.

So, the starting position at law was that:

- Monzo was under an implied duty at law to make payments promptly.
- It had a contractual right not to make payments where it suspected criminal activity.
- It could therefore block payments, or make enquiries, where it suspected criminal activity, but it was not under a contractual duty to do either of those things.

It is not clear from this set of terms and conditions whether suspecting a payment may relate to fraud (including authorised push payment fraud) is encompassed within Monzo's definition of criminal activity. But in any event, whilst the current account terms did not oblige Monzo to make fraud checks, I do not consider any of these things (including the implied basic legal duty to make payments promptly) precluded Monzo from making fraud checks before making a payment.

And, whilst Monzo was not required or obliged under the contract to make checks, I am satisfied that, taking into account longstanding regulatory expectations and requirements and what I consider to have been good practice at the time, it should fairly and reasonably have been on the look-out for the possibility of APP fraud and have taken additional steps, or made additional checks, before processing payments in some circumstances – as in practice all banks, including Monzo, do.

I am mindful in reaching my conclusions about what Monzo ought fairly and reasonably to have done that:

- FCA regulated banks are required to conduct their “business with due skill, care and diligence” (FCA Principle for Businesses 2) and to “pay due regard to the interests of its customers” (Principle 6)¹.
- Banks have a longstanding regulatory duty “*to take reasonable care to establish and maintain effective systems and controls for compliance with applicable requirements and standards under the regulatory system and for countering the risk that the firm might be used to further financial crime*” (SYSC 3.2.6R of the Financial Conduct Authority Handbook, which has applied since 2001).
- Over the years, the FSA, and its successor the FCA, have published a series of publications setting out non-exhaustive examples of good and poor practice found when reviewing measures taken by banks to counter financial crime, including various iterations of the “*Financial crime: a guide for firms*”.².

¹ Since 31 July 2023 under the FCA's new Consumer Duty package of measures, banks and other regulated firms must act to deliver good outcomes for customers (Principle 12), but the circumstances of this complaint pre-date the Consumer Duty and so it does not apply.

² For example, both the FSA's Financial Crime Guide at 4.2.5G and the FCA's 2015 “Financial crime: a guide for firms” gave examples of good practice in relation to investment fraud saying:

- Regulated banks are required to comply with legal and regulatory anti-money laundering and countering the financing of terrorism requirements. Those requirements include maintaining proportionate and risk-sensitive policies and procedures to identify, assess and manage money laundering risk – for example through customer due-diligence measures and the ongoing monitoring of the business relationship (including through the scrutiny of transactions undertaken throughout the course of the relationship).
- The October 2017, BSI Code, which a number of banks and trade associations were involved in the development of, recommended firms look to identify and help prevent transactions – particularly unusual or out of character transactions – that could involve fraud or be the result of a scam. Not all firms signed the BSI Code, but in my view the standards and expectations it referred to represent a fair articulation of what was, in my opinion, already good industry practice in October 2017 particularly around fraud prevention, and it remains a starting point for what I consider to be the minimum standards of good industry practice now.
- Since 31 July 2023, under the FCA's Consumer Duty³, regulated firms (like Monzo) must act to deliver good outcomes for customers (Principle 12) and must avoid causing foreseeable harm to retail customers (PRIN 2A.2.8R). Avoiding foreseeable harm includes ensuring all aspects of the design, terms, marketing, sale of and support for its products avoid causing foreseeable harm (PRIN 2A.2.10G). One example of foreseeable harm given by the FCA in its final non-handbook guidance on the application of the duty was *"consumers becoming victims to scams relating to their financial products for example, due to a firm's inadequate systems to detect/prevent scams or inadequate processes to design, test, tailor and monitor the effectiveness of scam warning messages presented to customers"*⁴.
- Monzo has agreed to abide by the principles CRM Code. This sets out both standards for firms and situations where signatory firms will reimburse consumers. The CRM Code does not cover all authorised push payments (APP) in every circumstances (and it does not apply to the circumstances of these payments), but I consider the standards for firms around the identification of transactions presenting additional scam risks and the provision of effective warnings to consumers when that is the case, represent a fair articulation of what I consider to be good industry practice generally for payment service providers carrying out any APP transactions.

Overall, taking into account the law, regulators rules and guidance, relevant codes of practice and what I consider having been good industry practice at the time, I consider Monzo should fairly and reasonably:

"A bank regularly assesses the risk to itself and its customers of losses from fraud, including investment fraud, in accordance with their established risk management framework. The risk assessment does not only cover situations where the bank could cover losses, but also where customers could lose and not be reimbursed by the bank. Resource allocation and mitigation measures are informed by this assessment.

A bank contacts customers if it suspects a payment is being made to an investment fraudster.

A bank has transaction monitoring rules designed to detect specific types of investment fraud. Investment fraud subject matter experts help set these rules."

³ Prior to the Consumer Duty, FCA regulated firms were required to "pay due regard to the interests of its customers and treat them fairly." (FCA Principle for Businesses 6). As from 31 July 2023 the Consumer Duty applies to all open products and services.

⁴ The Consumer Duty Finalised Guidance FG 22/5 (Paragraph 5.23)

- Have been monitoring accounts and any payments made or received to counter various risks, including anti-money laundering, countering the financing of terrorism, and preventing fraud and scams.
- Have had systems in place to look out for unusual transactions or other signs that might indicate that its customers were at risk of fraud (among other things). This is particularly so given the increase in sophisticated fraud and scams in recent years, which banks are generally more familiar with than the average customer.
- In some circumstances, irrespective of the payment channel used, have taken additional steps, or made additional checks, or provided additional warnings, before processing a payment – as in practice all banks do.
- Have been mindful of – among other things – common scam scenarios, the evolving fraud landscape (including for example the use of multi-stage fraud by scammers) and the different risks these can present to consumers, when deciding whether to intervene.

Should Monzo have fairly and reasonably made further enquiries before it processed Mrs K's payments?

To decide this, I've reviewed the activity on Mrs K's account statements, from which the payments were made, for the months leading up to the scam. This is often a finely balanced matter, and Monzo has a difficult balance to strike in how it configures its systems to detect unusual activity or activity that might otherwise indicate a higher than usual risk of fraud.

Having considered the first two payments of the scam (in the table above), on balance, I can't fairly say they were so unusual or suspicious, that they ought to have alerted Monzo that Mrs K may have been at risk of financial harm. I say that as I don't think the value of the payments, although representing an uplift, when compared to the typical spend on the account, was so high that it ought to have stood out to Monzo. And while, they were identifiably going towards a cryptocurrency exchange, Mrs K had indicated when opening her account that cryptocurrency related payments would be, among other things, an intended use for her account.

However, there were elements here of a pattern starting to emerge – with payments being made on the same day in quick succession, to a new payee. And while Mrs K had indicated cryptocurrency purchases as a potential use for the account, this doesn't distract from the fact that these type of payments carry a known fraud risk, something that Monzo would be aware of.

With this in mind, by the time Mrs K was making her third payment, for £2,740 on 16 August 2023, I'm persuaded Monzo ought reasonably to have had some concerns and made an intervention and taken additional steps before allowing the payment to debit her account. I say this because, by this point, along with the trends that had started to emerge that I have mentioned, this was the third payment within the space of a couple of days for an escalating amount – and Monzo will be aware that multiple escalating payments being made in quick succession can be indicative of financial harm. By the time she was making this payment, Mrs K would have cumulatively paid over £5,000, within the space of just a couple of days. Which, I'm persuaded represented a significant departure from how the account was typically used.

As mentioned above, the sequence here included payments which were identifiably linked to cryptocurrency. And while there of course can be legitimate payments made for the

purchase of cryptocurrency, payments such as this can be indicative of a higher degree of risk of fraud. There doesn't appear to have been these sorts of payments being made from Mrs K's account previously and on balance, I think the payments were becoming out of character compared to the typical sort of spending associated with her account.

Indeed, it seems that Monzo may have had its own doubts about this payment. I say that as the evidence it has provided of its in-app chat with Mrs K shows that it blocked the payment for further checks and asked Mrs K some questions around the payment. However, in view of the circumstances and the risk that I think was apparent, I'm not persuaded that its intervention here went far enough in mitigating the potential risks associated with this payment, or understanding its purpose sufficiently.

During the in-app chat or by way of speaking to Mrs K, I would reasonably have expected Monzo to ask open ended questions to better understand the reasons behind the payments Mrs K was making – for example asking questions such as, but not limited to, why was she making the payments, why had she made multiple cryptocurrency payments in quick succession, whether the money she had paid remained in her wallet, and if not, where it had been sent. Additionally, and importantly here, Mrs K had told Monzo that the payment was made through a payment link for the purchase of USDT for a task – information that, given what Monzo would have known about these types of scams, ought to have put it on a heightened status of alert.

I've thought about how Mrs K would've likely responded, had Monzo questioned her at this time. There's nothing to suggest that she would have been anything other than honest if questioned about the payments. She doesn't appear to have been given a cover story by fraudsters. Mrs K believed she was carrying out work associated with tasks and that the payments were to facilitate this work, it seems more likely than not to me that she would have said as much (which is supported by her indeed telling Monzo the payment was intended to be towards a task).

It then follows that Monzo, as professionals in these matters, would have been very concerned about the purpose of the payments and could then have given strong, tailored warnings about proceeding. There's nothing to suggest Mrs K wouldn't have heeded those warnings, once the risks and common scam features were exposed and explained to her.

Overall and on balance, when considering all of the above, I'm satisfied, given the findings made here around warnings and intervention, that Monzo didn't act fairly and reasonably and so ought to be liable, at least in part, for Mrs K's loss.

Monzo has argued that the payments from Mrs K's Monzo account were made to another account in her name, so it cannot be considered the point of loss and so it cannot be held liable. But as Monzo ought to be aware, and as has been set out in previous decisions from this service to Monzo, the potential for multi-stage scams ought to have been well known to it at the time. And as a matter of good practice Monzo should fairly and reasonably have been on the look-out for payments presenting an additional scam risk including those involving multi-stage scams.

Did Mrs K act reasonably in the circumstances?

Mrs K has already accepted the Investigator's opinion that any refund provided should be reduced to account for her own actions as part of the scam, and as I agree with this point, I won't dwell on it, except to say that I think there were a number of things that ought to have led Mrs K to proceed with more caution than she did.

While I accept Mrs K believed that these payments were being made in connection with a legitimate employment opportunity, I'm not persuaded that belief was a reasonable one. There was no formalisation of the arrangement between her and the employer – for example, there was no written contract and indeed no clear setting out of the terms of her employment.

In addition to that, the arrangement was an inversion of the normal employer-employee relationship. In most circumstances, people expect to be paid by their employer, rather than the other way around. As far as I can see, there wasn't really any attempt to explain this uncommon arrangement. I also think the level of salary and commission being offered seemed inflated, considering the nature of the work that was being carried out.

Overall, I think it's fair and reasonable for Monzo to make a 50% deduction from the redress payable to her.

Recovering Mrs K's money

I've also thought about whether Monzo could have done more to attempt to recover the payments after Mrs K reported the fraud. However, as part of the scam, the funds were forwarded on to the fraudsters from the cryptocurrency exchanges to which they were sent. So once Mrs K had done that, which it seems she did as soon as the money reached her cryptocurrency wallet, there was then no money to recover.

I also don't consider Monzo ought to have attempted a chargeback claim, as Mrs K made payments to get cryptocurrency and she seems to have received this before she forwarded it on to the fraudster. She therefore received the service paid for and there wouldn't have been a reasonable prospect of success with a chargeback claim.

Finally, I can see that Monzo recognised that it wasn't able to provide Mrs K with an outcome to her fraud claim in a timely manner. In recognition of this it has offered Mrs K £50 compensation. I am mindful the majority of the distress Mrs K suffered would have been caused by the scammers. But Monzo are aware of the timescales in which it needs to respond to its customers who have raised a dispute, and it failed to meet those timescales here. And its delay would have caused an additional element of distress and inconvenience to Mrs K unnecessarily. Bearing this in mind I think its award is fair and reasonable and is in line with what I would have awarded.

Putting things right

For reasons explained above, Monzo Bank Ltd should now:

- Refund Mrs K £8,401 (being 50% of £16,802 - the value of the final seven payments made).
- Pay 8% simple interest per year on this amount, calculated from the date of loss until the date of settlement, minus any applicable tax.*
- Pay £50 compensation in recognition of the delayed outcome to Mrs K's claim if it hasn't done so already.

*I've carefully thought about how the interest should be calculated. I'm mindful that the evidence provided indicates that the payments made by Mrs K were funded through a number of sources, with credits being received into her account from third parties, before subsequently being sent on to fraudsters. Given Mrs K's losses have come from various sources, I've taken a pragmatic approach and I'm persuaded that an award of 8% interest is

fair and reasonable in the circumstances.

My final decision

For the reasons given above, my final decision is that I uphold this complaint in part.

Under the rules of the Financial Ombudsman Service, I'm required to ask Mrs K to accept or reject my decision before 8 July 2025.

Stephen Wise
Ombudsman